

PUBLIC SAFETY DEPARTMENT[661]

Notice of Intended Action

Proposing rule making related to complaints and the filing and investigation thereof and requests for personal information and providing an opportunity for public comment

The Public Safety Department hereby proposes to amend Chapter 35, “Complaints Against Employees,” and Chapter 80, “Public Records and Fair Information Practices,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code chapters 22 and 80F.

State or Federal Law Implemented

This rule making implements, in whole or in part, 2021 Iowa Acts, Senate File 342, sections 17 through 22.

Purpose and Summary

This proposed rule making revises the definition of a complaint and the process to file a complaint to align with 2021 Iowa Acts, Senate File 342, sections 17 through 22, including requirements that written complaints be signed. This rule making also conforms the subsequent investigation of complaints and the release of personal information to the requirements of 2021 Iowa Acts, Senate File 342, sections 17 through 22.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Pursuant to the provisions of rule 661—10.222(17A), the Department does not have authority to waive requirements established by statute. Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to the provisions of rule 661—10.222(17A).

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on December 7, 2021. Comments should be directed to:

Sarah Jennings
Department of Public Safety
Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319
Phone: 515.725.6185
Email: jennings@dps.state.ia.us

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 661—35.1(80) as follows:

661—35.1(80) Definitions. The following definitions apply to rules 661—35.1(80) through 661—35.3(80) 661—35.4(80):

“*Complaint*” means ~~an a formal written allegation by any person of a~~ signed by the complainant, or a signed written statement by an officer receiving an oral complaint stating the complainant’s allegation regarding, but not limited to, breach of rules or orders, a violation of the law, or other misconduct by an employee of the department.

“*Department*” means the Iowa department of public safety.

“*Employee*” means any employee of the department.

ITEM 2. Amend rule 661—35.2(80) as follows:

661—35.2(80) Filing a complaint.

35.2(1) Any person may file a complaint against an employee or employees by:

a. Mailing a signed complaint in writing to the professional standards bureau, at the following address:

Professional Standards Bureau
Iowa Department of Public Safety
~~State Public Safety Headquarters~~ Oran Pape State Office Building
215 East 7th Street
Des Moines, Iowa 50319

Complaints in writing may be mailed or submitted to any office of the department.

b. Calling the professional standards bureau at (515)725-6270, or by calling any office of the department.

c. Completing the commendation/complaint form online on the website of the department.

NOTE: The complaint form may be found at the following location: [stateofiowa.seamlessdocs.com/f/PSB Complaint Form](http://stateofiowa.seamlessdocs.com/f/PSB_Complaint_Form).

35.2(2) The complainant should describe as specifically and completely as possible the nature of the complaint and the details of any incident or incidents which give rise to the complaint.

35.2(3) Each complaint received will be recorded and investigated.

35.2(4) The complainant need not be identified if a statement is received as an oral complaint. Anonymous complaints will be accepted and investigated as thoroughly as possible.

ITEM 3. Adopt the following new rule 661—35.4(80):

661—35.4(80) Investigation requirements of agency.

35.4(1) Recordkeeping and release of information. The department shall keep confidential an officer’s statement, recordings or transcripts of any interviews or disciplinary proceedings, and any

complaints made against an officer unless otherwise provided by law or with the officer's written consent. Nothing in this rule prohibits the release of an officer's statement, recordings or transcripts of any interviews or disciplinary proceedings, and any complaints made against an officer to the officer or the officer's legal counsel upon the officer's request.

35.4(2) *Training of investigating employee.* The department shall provide training to any officer or supervisor who performs or supervises an investigation under Iowa Code section 80F.1, and shall maintain documentation of any related training. The Iowa law enforcement academy shall adopt minimum training standards consistent with this rule, including training standards concerning interviewing an officer subject to a complaint.

35.4(3) *Right of officer to personnel file and records.* Upon written request, the department shall provide to the requesting officer or the officer's legal counsel a copy of the officer's personnel file and training records regardless of whether the officer is subject to a formal administrative investigation at the time of the request.

This rule is intended to implement Iowa Code sections 80F.1(20) through 80F.1(22).

ITEM 4. Amend rule 661—80.15(22,80F) as follows:

661—80.15(22,80F) Release of official photographs of or personal information about employees.

80.15(1) An official photograph of or personal information about an employee of the department who is an officer as defined in Iowa Code section 80F.1 shall be released only if either of the following is true:

a. The employee has signed a written release giving permission to release the photograph or personal information; or

b. A request has been received to release the photograph or personal information pursuant to Iowa Code chapter 22.

80.15(2) A photograph of or personal information about any employee of the department shall not be released if its release could jeopardize an ongoing investigation or place the employee at risk.

80.15(3) An officer's personal information, including but not limited to the officer's home address, personal telephone number, personal electronic mail address, date of birth, social security number, and driver's license number, shall be confidential and redacted prior to a record's release to the public by the department.